



# House of Representatives

General Assembly

**File No. 560**

*January Session, 2003*

Substitute House Bill No. 6151

*House of Representatives, April 28, 2003*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE USE OF SICK TIME FOR FAMILY AND MEDICAL LEAVE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-51pp of the general statutes is amended by  
2 adding subsection (c) as follows (*Effective October 1, 2003*):

3 (NEW) (c) (1) It shall be a violation of sections 31-51kk to 31-51qq,  
4 inclusive, for any employer to deny an employee the right to use  
5 accumulated sick leave or to discharge, threaten to discharge, demote,  
6 suspend or in any manner discriminate against an employee for using,  
7 or attempting to exercise the right to use, accumulated sick leave to  
8 attend to a serious health condition of a son or daughter, spouse or  
9 parent of the employee, or for the birth or adoption of a son or  
10 daughter of the employee.

11 (2) Any employee aggrieved by a violation of this subsection may  
12 file a complaint with the Labor Commissioner alleging violation of the

13 provisions of this subsection. Upon receipt of any such complaint, the  
14 commissioner shall hold a hearing. After the hearing, the  
15 commissioner shall send each party a written copy of the  
16 commissioner's decision. The commissioner may award the employee  
17 all appropriate relief, including rehiring or reinstatement to the  
18 employee's previous job, payment of back wages and reestablishment  
19 of employee benefits to which the employee otherwise would have  
20 been eligible if a violation of this subsection had not occurred. Any  
21 party aggrieved by the decision of the commissioner may appeal the  
22 decision to the Superior Court in accordance with the provisions of  
23 chapter 54.

24 (3) The rights and remedies specified in this subsection are  
25 cumulative and nonexclusive and are in addition to any other rights or  
26 remedies afforded by contract or under other provisions of law.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Department of Labor	GF - Cost	Potential Minimal	Potential Minimal
Judicial Department	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill prohibits private employers from denying employees the right to use their accumulated sick time for family medical leave purposes. The bill requires the Commissioner of the Department of Labor to hold a hearing upon receipt of a complaint of an employee aggrieved by such violation. Currently, the Department of Labor investigates complaints made by an employee that alleges an employer has violated the state Family and Medical Leave Act (FMLA). In FY 02 there were 82 total Family and Medical Leave complaints filed with the Workplace Standards Unit within the department. It is anticipated that a minimal number of cases will result from the provisions of the bill and increase the complaint and hearing activities at a cost of less than \$5,000. Therefore, the department will not need additional resources as a result of the provisions in the bill.

Any increase to the Superior Court caseload as a result of the bill, is anticipated to be minimal and could be handled without additional resources.

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**OLR Bill Analysis**

sHB 6151

**AN ACT CONCERNING THE USE OF SICK TIME FOR FAMILY AND MEDICAL LEAVE****SUMMARY:**

This bill allows private-sector employees to use accumulated sick time while on family medical leave. It prohibits employers from denying such use or firing, threatening to fire, demoting, suspending, or in any way discriminating against an employee for using or attempting to use sick leave for family medical leave purposes. The new leave provision applies for an employee (1) to attend to the serious health condition of a child, spouse, or parent of the employee or (2) for the birth or adoption of a child. The bill applies to only private-sector employers with more than 75 employees.

Under current law, the employer may, but is not required to, allow the employee to use accumulated sick time to attend to the serious health condition of a child, spouse, or parent of the employee.

The bill also allows an employee aggrieved by a suspected violation of the bill to file a complaint with the state labor commissioner, who must hold a hearing on the matter and provide each party with written notification of his decision.

EFFECTIVE DATE: October 1, 2003

**SICK LEAVE FOR FAMILY MEDICAL LEAVE ACT (FMLA) PURPOSES*****What Triggers a Leave***

Under the bill, the “serious health condition” of a family member, as defined by the state’s Family Medical Leave Act (FMLA), triggers the sick leave option. The FMLA defines serious health condition as illness, injury, impairment, or physical or mental condition that involves (1) inpatient care in a hospital, hospice, nursing home, or residential medical care facility or (2) continuing treatment, including

outpatient treatment, by a health care provider.

### ***Relief and Appeals***

Under the bill, the labor commissioner may award the employee all appropriate relief including rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of benefits the employee would have received if not for the employer's violation. Any party may appeal the commissioner's decision to Superior Court.

## **BACKGROUND**

### ***Existing State and Federal FMLA Provisions***

The state private-sector FMLA law applies to employers with 75 or more employees, but not to the state, towns, boards of education, or private or parochial schools (state employees have such leave under a separate law). The law allows employees up to 16 weeks of unpaid leave within a 24-month period as long as the employee has worked at least 1,000 hours during the 12-month before the leave begins.

The federal FMLA applies to employers with 50 or more employees and sets a higher hours-worked requirement (1,250 hours a year) before an employee qualifies. Because the federal law allows states to have a more generous law, private employers with 50 to 74 employees come under the federal law and private employers with 75 or more employees fall under the state provisions.

### ***Legislative History***

The House referred the original version of this bill (File 60) to the Judiciary Committee on April 1. On April 11, the Judiciary Committee reported out a substitute version that (1) allows an employee to use sick time for FMLA leave upon the "serious health condition" of a family member rather than upon the "illness" of such member, (2) deletes a provision in the original bill for an aggrieved employee to take a complaint directly to Superior Court, and (3) removes provisions in the original bill that require the labor commissioner or the court to award reasonable attorney's fees and costs.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Report

Yea 10      Nay 3

Judiciary Committee

Joint Favorable Substitute

Yea 21      Nay 15